

REMARKS

The present application has been reviewed in light of the Final Office Action dated March 9, 2007. Claims 1, 3-14 and 19-20 are currently pending, claims 1, 3 and 12 having been amended herein, claim 2 having been cancelled herein, claims 19 and 20 having been added herein, and claims 15-18 having been previously withdrawn. In light of the remarks that follow, reconsideration of the present application is respectfully requested.

Applicants gratefully acknowledge that the Examiner has indicated that claim 7 would be allowable if rewritten in independent form to include all of the limitations of the base claim and any intervening claims.

Accordingly, claim 1 has been amended herein in a manner to include the allowable limitations of claim 7 and any necessary limitations from any intervening claims.

In view of the foregoing, Applicants respectfully submit that independent claim 1, and claims 3-11 which depend, directly or indirectly, therefrom are now in condition for allowance.

Claims 1-2, 4-6 and 12-13 were rejected under 35 U.S.C. § 102(b) as being unpatentable over U.S. Patent No. 5,439,467 to Benderev et al. (hereinafter "Benderev").

In view of the amendments to independent claim 1, to include the allowable limitations of claim 7 therein, Applicant respectfully submits that the rejection of independent claim 1, and the claims that depend therefrom, as being anticipated by Benderev, has been overcome. Accordingly, the rejection of independent claim 1, and the claims that depend therefrom, should be withdrawn.

Applicant submits that Benderev does not disclose, teach, or suggest the template recited in independent claim 12.

Pursuant to 35 U.S.C. § 102(b), a claim is unpatentable only if each and every element set forth in the claim is found, either expressly or inherently, in a single prior art reference. *See* MPEP 2131; *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Independent claim 12 presently recites an instrument kit including, *inter alia*, first and second templates, each template including an elongate body defining X, Y and Z axes, the elongate body of the first template being substantially linear, the elongate body of the second template having a distal end portion which is obliquely arranged with respect to the X-axis, wherein each template defines a non-coring, atraumatic distal end.

As seen in FIGS. 1-9 and 13-15 of the present application, the elongate body (122, 142, 162) of each template (120, 140, 160) includes a distal terminal end surface (128) which is rounded or radiused. Additionally, as illustrated in FIGS. 1-9 and 13-15 of the present application, each elongate body (122, 142, 162) includes at least a distal end portion (124, 144, 164) which is either solid or which is incapable of coring through tissue.

In contrast, Benderev discloses a suture passer 105 comprising a handle 110, an axially movable probe 115, and a probe guide 125 having a suture channel 130. (see Col. 4, lines 44-46). According to Benderev, and as seen in FIGS. 1-4 thereof, the distal end of probe 115 is provided with a sharpened tip 120. In other words, the sharpened tip 120 of Benderev is configured for the intended purpose of causing trauma or being traumatic to tissue when in use or

operation.

Thus, Applicant respectfully submits that Benderev fails to anticipate independent claim 12 because Benderev fails to disclose any template defining a non-coring, atraumatic distal end, as recited in independent claim 12.

Accordingly, Applicant submits that independent claim 12 of the present application is patentably distinguishable from Benderev, and therefore respectfully request the withdrawal of the rejection of independent claim 12 under 35 U.S.C. § 102(b), as being anticipated by Benderev.

Since claim 13 depends directly from independent claim 12, and contains all of the features of independent claim 12, Applicant respectfully submits that claim 13 is also in condition for allowance.

Claims 3, 10-11 and 14 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Benderev in view of U.S. Patent No. 6,666,872 to Barreiro et al. (hereinafter "Barreiro").

In view of the amendments to independent claim 1, to include the allowable limitations of claim 7 therein, Applicant respectfully submits that the rejection of claims 3, 10 and 11, as being unpatentable over Benderev in view of Barreiro, has been rendered moot. Accordingly, the rejection of claims 3, 10 and 11, as being unpatentable over Benderev in view of Barreiro, should be withdrawn.

Thus, in regards to claim 14, the Examiner relies on Barreiro for the teaching of the dimensions and configurations of the devices recited in claim 14 of the present application. As

discussed above, Benderev fails to disclose the template substantially recited in independent claim 12. Applicant submits that Barreiro fails to remedy the deficiencies in Benderev in that Barreiro fails to disclose any template defining a non-coring, atraumatic distal end, as recited in independent claim 12. Thus, Benderev, taken in any proper combination with Barreiro, fails to suggest all of the limitations and features of claim 14.

Additionally, as claim 14 depends, directly or indirectly, from independent claim 12, and contains all of the features of independent claim 12, Applicant respectfully submits that claim 14 is also in condition for allowance.

Claims 8 and 9 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Benderev in view of U.S. Patent 3,842,824 to Neufeld (hereinafter "Neufeld").

In view of the amendments to independent claim 1, to include the allowable limitations of claim 7 therein, Applicant respectfully submits that the rejection of claims 8 and 9, as being unpatentable over Benderev in view of Neufeld, has been rendered moot. Accordingly, the rejection of claims 8 and 9, as being unpatentable over Benderev in view of Neufeld, should be withdrawn.

Since claims 8 and 9 depend from independent claim 1, and contain all of the limitations of independent claim 1, Applicant respectfully submits that the combination of Benderev and Neufeld fails to render claims 8 and 9 obvious, and therefore claims 8 and 9 are allowable over Benderev in view of Neufeld.

New claims 19 and 20 are submitted herein are commensurate in scope with claims 1 and 3-14, and thus no Applicant submits that no additional searching is required for examination of claims 19 and 20. Additionally, Applicant submits that new claims 19 and 20 include features not present in the cited prior art references and are therefore allowable.

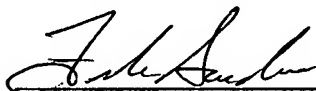
In particular, Applicant respectfully submits that none of the references, taken alone or in any proper combination with one another, disclose an instrument kit for performing a repair procedure on a meniscal tear in a knee for use in combination with a meniscal repair device configured to fire anchors into a target site, wherein the instrument kit comprises a plurality of templates each including a solid elongate body defining X, Y and Z axes, and wherein the plurality of templates includes at least one template having an elongate body that is linear along the X-axis; at least one template having an elongate body defining a distal end portion that is offset in a direction of the Y-axis; and at least one template having an elongate body defining a distal end portion that is offset in a direction of the Z-axis, as recited in independent claim 19

In view of the foregoing remarks and arguments, and for the reasons set out above, Applicant respectfully submits that claims 1, 3-14 and 19-20 are patentably distinct from the prior art cited and are therefore in condition for allowance. Favorable action on these claims is requested.

Should the Examiner believe that a telephone or personal interview may facilitate resolution of any remaining matters, the Examiner is respectfully requested to contact Applicant's undersigned attorney at the telephone number indicated below.

Early and favorable action is earnestly requested.

Respectfully submitted,



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